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ORIGINAL

BEFORE THE ARIZONA POWER PLANT AND  
TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION OF  
SOUTHWEST TRANSMISSION COOPERATIVE,  
INC., OR ITS ASSIGNEES, IN CONFORMANCE  
WITH THE REQUIREMENTS OF ARIZONA  
REVISED STATUTES §§ 40-360, *et seq.*, FOR A  
CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AUTHORIZING THE  
CONSTRUCTION OF THE SAN MANUEL  
INTERCONNECT PROJECT LOCATED IN THE  
VICINITY OF SAN MANUEL IN PINAL COUNTY,  
ARIZONA.

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) Arizona Corporation Commission  
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)  
) Docket No. L-00000CC-09-0158-0142  
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)  
) Case No. 142  
)  
)  
)

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AZ CORP COMMISSION  
DOCKET CONTROL

PROCEDURAL ORDER

An application for a Certificate of Environmental Compatibility was filed in the above captioned matter with docket control of the Arizona Corporation Commission ("Commission") on March 27, 2009. A copy of the application was transmitted to John Foreman, designee of the Attorney General of Arizona, Terry Goddard, as Chairman ("Chairman") and Presiding Officer of the Arizona Power Plant and Transmission Line Siting Committee ("Line Siting Committee"). A.R.S. §§ 40-360.01(B) (1) and 40-360.03. As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C. R14-3-201(E), the Chairman issues the following procedural order,

IT IS ORDERED:

1. The Applicant and all other potential parties ("persons" within the meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)) shall advise the Chairman in writing on or before the time of the pre-hearing conference scheduled below if they disagree that the time limit for decision on the application by the Line Siting Committee set by A.R.S. § 40.360.04(D) is September 23, 2009.
2. The Applicant shall arrange for the publication and posting of notice of the evidentiary hearing, as agreed to at a pre-application hearing involving the Applicant and all known potential intervenors, in a form approved by the Chairman and circulated for approval as to form to all known potential interested parties. In addition, the Applicant shall submit a copy of the notice and present testimony describing the publication and posting of the notice at the evidentiary hearing.
3. The Applicant shall make arrangements for the evidentiary hearing to be held at the Hilton Tucson El Conquistador, 10000 North Oracle Road, Tucson, Arizona 85704, beginning at 10:00 a.m. on May 12, 2009, and continuing, if needed, on May 13, 2009,

Arizona Corporation Commission

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1 at 9:00 a.m. In addition, the Applicant shall make arrangements for a public comment  
2 session to be held at the same venue as needed during the time scheduled for the  
hearing. The Applicant shall make arrangements for further regular sessions and, if

- 3 4. The Applicant shall contact Michael Kearns, Chief Finance Officer of the Commission  
4 (602-542-3931) and advise him of the Applicant's position concerning reimbursement of  
5 the Line Siting Fund should the expenses of the hearings exceed the application fee and  
6 to discuss financial arrangements regarding hotel reservations and other expenses of  
the Line Siting Committee Members. A.R.S. § 40-360.10. The Applicant shall advise the  
Chairman of the results of these discussions so the necessary information may be  
communicated to the Line Siting Committee Members.
- 7 5. The parties and any other potential parties ("persons" within the meaning of A.R.S. § 40-  
8 360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-  
9 360.05(A)) shall not communicate with any member of the Line Siting Committee about  
10 any procedural matters or any factual issues or legal issues relating to the Application  
11 while the Application is pending before the Line Siting Committee. The only exception is  
12 the parties may communicate with the Chairman during the time the Application is  
13 pending about procedural matters relating to the preparation of the Application for  
14 hearing, the hearing on the Application and the decision on the Application by the Line  
15 Siting Committee. Communication of the parties with the Chairman about any procedural  
16 matters during the time an Application is pending shall be in writing with a copy of the  
writing to all parties or known potential parties ("persons" within the meaning of A.R.S. §  
40-360(8) who have expressed an intention to intervene or request to intervene pursuant  
to A.R.S. § 40-360.05(A)), or shall be on the record at a pre-application hearing, at a  
procedural hearing or at the hearing on the application. Any party who initiates any  
written communication sent to the Chairman shall file with docket control of the  
Commission a copy of the communication including its distribution list within 10 days of  
sending the communication.
- 17 6. Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties shall submit at  
18 least forty-eight hours before the hearing or meeting described in the agenda any  
19 objections, additions or corrections to the agenda in order to bring the agenda into  
compliance with A.R.S. § 38-431.02 in writing to the Chairman, serve a copy upon all  
other parties and file a copy with docket control of the Commission.
- 20 7. In addition, all parties shall meet and confer as needed before, during and after the  
21 hearing to attempt to resolve any disputes amongst the parties. The parties also shall  
22 keep all other parties advised of their positions and intentions with regard to the  
presentation of evidence, witnesses and the application process in general to avoid  
delay, the presentation of repetitive evidence and any unfair advantage from surprise.
- 23 8. All parties shall prepare brief summaries of the expected direct testimony of each  
24 witness they will call. In lieu of a testimonial summary, a party may pre-file and exchange  
25 all or substantially all of the direct testimony of any witness. Testimonial summaries and  
26 pre-filed testimony should be filed no later than the last pre-hearing conference or three  
business days before the witness is to testify, whichever is later. Except for good cause,

1 no witness will be allowed to testify on direct examination concerning issues not  
2 reasonably identified in the pre-filed testimony or testimonial summary.

3 9. All parties shall meet, confer and exchange all exhibits the party plans to offer in  
4 evidence before the hearing or before they are referred to in testimony or offered in  
5 evidence. The Applicant shall, and other parties may, provide one or more three ring  
6 binders for the Chairman and each member of the Line Siting Committee to hold exhibits  
7 at the beginning of the hearing and as needed during the hearing. Each party shall  
8 prepare a numbered list of the exhibits and a copy of all exhibits suitable for placement  
9 in the binders that have been exchanged with the other parties that each party expects  
10 to offer in evidence at the hearing for the Chairman and each Line Siting Committee  
11 member. The exhibits shall be provided at the beginning of the hearing and during the  
12 hearing before reference to the exhibit is made in the hearing. Except for good cause,  
13 no exhibit that was not exchanged with the other parties shall be considered at the  
14 hearing. Any exhibit to which reference is made during any hearing that is not offered or  
15 admitted into evidence shall be provided to the court reporter at the evidentiary hearing  
16 for inclusion in the record unless it is withdrawn and the Chairman determines its filing is  
17 not necessary to an understanding of the actions of the Committee.

18 10. All exhibits shall be consecutively numbered with the Applicant's exhibits denominated:  
19 A-1, A-2, etc. Each intervening party will be assigned by the Chairman a letter or letters  
20 of the alphabet as a preface with which to consecutively number its exhibits. For  
21 example, the Commission Staff will number its exhibits: CC-1, CC-2, etc.

22 11. The Applicant may make an opening statement at the beginning of the hearing of no  
23 more than thirty minutes. Each other party may make an opening statement of no more  
24 than five minutes.

25 12. Public comment will be heard after the opening statements and at other times set by the  
26 Chairman during the hearing. See ¶ 3, above.

13 In the event the Chairman determines that a tour is appropriate, the Applicant shall  
14 arrange for transportation of any Committee Members who wish to attend a tour of the  
15 locations where facilities proposed in the application or similar facilities are located. The  
16 Applicant shall submit to the Chairman, for approval in advance of the hearing, a  
17 schedule and protocol agreed to by all parties for the tour. If all parties do not agree  
18 upon the schedule and protocol for the tour, the disagreements shall be submitted to the  
19 Chairman for resolution. The protocol shall identify the tour route, identify the location of  
20 any stops, and identify any witnesses who will accompany the tour. Counsel may ask  
21 brief explanatory questions of the identified witness or witnesses during the stops about  
22 the location, what can be seen from the location of the stop and the relevance of the  
23 location or view to the Application in the discretion of the Chairman. All witnesses who  
24 testify on the tour shall be sworn before their testimony. All questions and answers shall  
25 be before a court reporter. No testimony or discussion with or between Committee  
26 Members about the Application or matters relating to the Application will take place,  
except on the record before a court reporter at the designated stops. The protocol shall  
provide for access to any testimony presented at stops on a tour to members of the  
public. Members of the public who wish to attend the tour shall be encouraged to notify

1 the parties or the appropriate staff of Arizona Corporation Commission in advance of  
2 their intention to attend.

3 14. Parties may present their witnesses in panels where appropriate. A party that intends to  
4 present witnesses in panels shall identify the members of any panel at the time it files its  
5 witness summaries.

6 15. The Applicant shall make arrangements for the preparation of expedited court reporter  
7 transcripts of all pre-application hearings, pre-hearing procedural hearings and the  
8 evidentiary hearing, so that the transcripts are available for public inspection within three  
9 working days after each hearing date, as required by A.R.S. § 38-431.01D and § 40-  
10 360.04C. In addition, the Applicant shall file a certification with Commission docket  
11 control that it has provided a copy of the transcripts to a public library identified in the  
12 certification that is in the vicinity of the application.

13 16. On or before the final pre-hearing procedural hearing set below, the Applicant shall, and  
14 the other parties may, file proposed findings of fact, proposed conclusions of law, the  
15 wording of any proposed Certificate of Environmental Compatibility and the wording of  
16 any proposed conditions to the Certificate.

17 17. If the beginning of closing arguments and the Line Siting Committee's deliberations are  
18 more than one week after the beginning of the hearing, the parties shall meet and confer  
19 after the hearing begins and before closing arguments concerning proposed findings of  
20 fact, proposed conclusions of law, a proposed Certificate of Environmental Compatibility  
21 and the wording of any proposed conditions to the Certificate. If the parties are able to  
22 agree upon part or all of the proposed findings of fact, proposed conclusions of law,  
23 proposed forms of a Certificate of Environmental Compatibility and proposed wording of  
24 conditions to the Certificate, all that is agreed upon should be reduced to writing and  
25 filed with Commission docket control. If the parties are not able to agree completely, the  
26 Applicant shall, and all other parties may, file proposed findings of fact, proposed  
conclusions of law, proposed wording of a Certificate of Environmental Compatibility and  
proposed wording of conditions to the Certificate on the day before the beginning of  
closing arguments and the Line Siting Committee's deliberations. If the Applicant or any  
other party proposes conditions based upon conditions used in prior cases, each  
proposed condition from a prior case shall contain the case number of the most recent  
prior Certificate of Environmental Compatibility using the language approved by the  
Commission.

18. All witness summaries, proposed findings of fact, proposed conclusions of law,  
proposed Certificates of Environmental Compatibility and proposed conditions of  
Certificates, shall be filed with Commission docket control pursuant to A.A.C. R14-3-204  
and -205. If any documents that are filed are hand delivered during the hearing, eleven  
copies shall be submitted to the Chairman for distribution to the other Committee  
Members.

19. Within five business days after the hearing concludes and the Committee renders its  
decision, the parties shall meet and confer in person or electronically to determine if they  
can agree upon the final wording of a proposed Certificate of Environmental

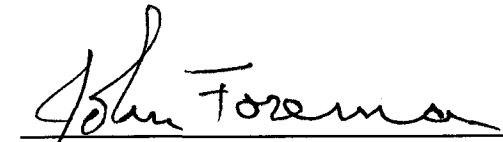
1 Compatibility. If the parties can agree upon the final wording of a proposed Certificate of  
2 Environmental Compatibility, Applicant shall file forthwith the agreed upon proposed  
3 Certificate of Environmental Compatibility. If the parties are not able to agree upon a  
4 proposed form of Certificate of Environmental Compatibility, the Applicant shall file, and  
5 the other parties may file, within ten days after the date of the decision of the Committee,  
6 those portions of the proposed Certificate of Environmental Compatibility upon which the  
7 parties agree. The Applicant also shall file, and any other party also may file, its  
8 understanding of any disputed portions of the proposed Certificate of Environmental  
9 Compatibility. All proposed forms of the Certificate of Environmental Compatibility and  
any objections or proposed revisions shall be filed with docket control of the Commission  
and a copy shall be hand delivered to the office of the Chairman at 1275 W. Washington,  
Phoenix, Arizona. Objections or suggestions that are not timely filed shall be considered  
waived. The copy of the proposed Certificate of Environmental Compatibility filed by the  
Applicant and any proposed revisions filed by the parties served upon the Chairman  
shall include an electronic file containing the wording of the proposed language in a  
format compatible with Microsoft® Word word processing program.

10 20. The Applicant and all other potential parties ("persons" within the meaning of A.R.S. §  
11 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-  
12 360.05(A)) shall meet with the Chairman for a final pre-hearing conference on May 5,  
13 2009, at 2:00 p.m. at the offices of the Attorney General of Arizona at 1275 W.  
Washington, Phoenix, Arizona. Parties may appear by telephone with the prior  
permission of the Chairman. At the final pre-hearing conference, the Chairman will  
review with the parties:

- 14 a. The publication and posting of notices of the hearing;
- 15 b. The proposed agenda for the evidentiary hearing;
- 16 c. Any notices to intervene, applications to intervene, and applications to make a  
limited appearance;
- 17 d. The status of attempts to narrow the issues at the evidentiary hearing or to agree  
to language in the proposed findings of fact, proposed conclusions of law,  
18 proposed Certificates of Environmental Compatibility and proposed conditions to  
the Certificate;
- 19 e. The status of the filing and exchange of witness summaries or written testimony,  
proposed findings of fact, proposed conclusions of law, proposed Certificates of  
Environmental Compatibility and proposed conditions to the Certificate;
- 20 f. The status of the exchange of exhibits amongst the parties;
- 21 g. Any objections, motions, responses and legal memoranda that have been filed;
- 22 h. Plans and preparations for the hearing, public comment session, and tour of the  
proposed site.

23 IT IS FURTHER ORDERED, the Chairman may amend or waive any portion of this  
24 Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing conference or at a  
25 hearing.  
26

1 DATED this 8<sup>th</sup> day of April, 2009,

2 

3 John Foreman  
4 Assistant Attorney General  
5 Chairman  
6 Arizona Power Plant and Transmission Line  
Siting Committee  
[john.foreman@azag.gov](mailto:john.foreman@azag.gov)

7 Pursuant to A.A.C. R14-3-204,  
8 The Original and 25 copies were  
filed this 8<sup>th</sup> day of April, 2009 with:

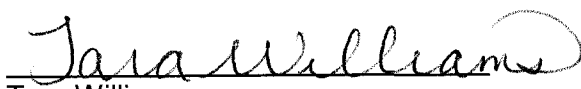
9 Docket Control  
10 Arizona Corporation Commission  
11 1200 W. Washington St.  
Phoenix, AZ 85007

12 Copy of the above mailed this  
13 8<sup>th</sup> day of April, 2009 to:

14 Robin Mitchell  
15 Janice Alward, Chief Counsel  
16 Arizona Corporation Commission  
1200 West Washington Street  
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17 Michael M. Grant  
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21 Marta T. Hetzer  
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Phoenix, Arizona 85004-1481

24   
25 Tara Williams  
26